

**MINUTES OF THE REGULAR MEETING OF THE
SAN MARCOS PLANNING AND ZONING COMMISSION
CITY COUNCIL CHAMBERS
June 10, 2008**

1. Present

Commissioners:

Fred A. Terry, Chair
Sherwood Bishop, Vice Chair
Bill De Soto
Steve Cline (*absent*)
Ryan Thomason
Bill Taylor
Curtis Seebeck
Ruben Becerra (*absent*)
Randy Bryan

City Staff:

Cecil Pennington, Interim Director of Planning
Phil Steed, Planner
Chance Sparks, Chief Planner
John Foreman, Senior Planning Tech.
Francis Serna, Recording Secretary

Others Present: Mike Cotter, Steve Ramsey, Thomas Rhodes, Ed Theriot, Christopher Williams, Mr. & Mrs. Hanzel, and Michael D. Abild.

2. Call to Order and Announce a Quorum is Present.

With a quorum present, the Regular Meeting of the San Marcos Planning & Zoning Commission was called to order by Chair Terry at 6:01 p.m. on Tuesday, June 10, 2008 in the Council Chambers of the City of San Marcos City Hall, 630 E. Hopkins, San Marcos, Texas 78666.

3. Hold a workshop session to outline the roles and responsibilities of the Planning and Zoning Commission in their function as the Capital Improvements Advisory Committee in the updating of water and wastewater impact fees.

Ed Theriot and Thomas Rhodes of Mitchell Planning Group gave a brief presentation of the Planning and Zoning Commission's role as Capital Improvements Advisory Committee in the updating of water and wastewater impact fees. Discussion Topics included History and Background of Impact Fees, Role and Responsibility of CIAC and the Adoption Process. Mr. Theriot advised the Commission that they will prepare a draft land use assumption report to determine maximum impact fees and present the report to the Commission for their review.

4. Citizen Comment Period

There were no citizen comments.

5. VR-08-04. Hold a public hearing consider a request by Herlinda Lopez, on behalf of Pappa Pasta Restaurant, for a Variance Permitting an Alcohol-serving Restaurant less than 300 feet from a Public School at 2250 Hunter Road.

Chance Sparks explained that the applicant is seeking a variance to allow him to seek a CUP for an alcohol-service restaurant located less than 300 feet from a public school, provided certain standards are met. He pointed out that the request is similar to the Tres Hermanas Restaurant request heard before the Commission on November 13, 2007. Mr. Sparks advised the Commission that the applicant has received a letter from San Marcos CISD approving the restaurant to seek the variance. The letter includes a condition that the following statement be included on the restaurant menu: Due to close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages. This statement will be included in the CUP. The applicant has agreed to the request by the SMCISD. In addition, the establishment does meet the parking requirements and staff recommended approval of the request as submitted, subject to the requirements of the Land Development Code Section 4.3.4.2(b)(3).

Chair Terry opened the public hearing. Christopher Lopez, representative of the family owned business located at 2550 Hunter Road, stated they are in agreement to include the disclaimer on the menu requested by the SMCISD. He added that they will comply with any requests by the City. There were no additional public comments, and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Seebeck and second by Commissioner Taylor, the Commission voted seven (7) for and none (0) opposed, to approve the request subject to the requirements of the Land Development Code Section 4.3.4.2(b)(3). The motion carried unanimously.

6. CUP-08-14. Hold a public hearing and consider a request by Herlinda Lopez, on behalf of Pappa Pasta Restaurant, for a Conditional Use Permit to allow on-premise consumption of beer and wine at a restaurant located at 2250 Hunter Road.

Chance Sparks advised the Commission that the CUP request is the second part of the applicant's request. He stated that no negative feedback has been received from other departments and that the SMCISD has consented to the variance so that the applicant could seek the CUP. The letter includes a condition that the following statement be included on the restaurant menu: Due to close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages. Mr. Sparks explained that the restaurant will close at 10:00 p.m. and are required to submit yearly reports to staff. Staff recommended approval of the request for an initial one year with the conditions that they successfully receive a variance under Section 4.3.4.2(b)(3) of the Land Development Code for an alcohol-serving restaurant less than 300 feet from a public school; include the statement "Due to close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages" ; Ensure the primary entrance for the restaurant be at least 200 feet from the primary entrance of the school; operate the restaurant such that gross revenue from alcohol sales will be less than 25% of total gross revenue for the business, with the restaurant submitting an annual report indicating this condition has been met; serve alcoholic beverages no earlier than 11:00 a.m. and no later than 10:00 p.m.; meet all other applicable codes of the City of San Marcos; successfully receive a Certificate of Occupancy and successfully receive a State TABC license.

Chair Terry opened the public hearing. There were no public comments, and the public hearing was closed.

MOTION: Upon a motion made by Commissioner Bishop and second by Commissioner Thomason, the Commission voted seven (7) for and none (0) opposed, approve the request for an initial one year period with the conditions that they successfully receive a variance under Section 4.3.4.2(b)(3) of the Land Development Code for an alcohol-serving restaurant less than 300 feet from a public school; include the statement "Due to close proximity of a school campus, please be alert for students and drive carefully. This restaurant will accommodate, as necessary, any individual that needs transportation after consuming alcoholic beverages" ; Ensure the primary entrance for the restaurant be at least 200 feet from the primary entrance of the school; operate the restaurant such that gross revenue from alcohol sales will be less than 25% of total gross revenue for the business, with the restaurant submitting an annual report indicating this condition has been met; serve alcoholic beverages no earlier than 11:00 a.m. and no later than 10:00 p.m.; meet all other applicable codes of the City of San Marcos; successfully receive a Certificate of Occupancy and successfully receive a State TABC license. The motion carried unanimously.

7. CUP-08-15. Hold a public hearing and consider a request by Keith Carney, on behalf of Zen's Pizza Bistro, for renewal of a TABC Conditional Use Permit to allow the on-premise consumption of beer and wine at a restaurant located at 700 N. LBJ.

John Foreman stated that the applicant is proposing to renew a CUP for Zen's Pizza Bistro restaurant. On April 10, 2007, the Commission approved the CUP for an initial one year period. Mr. Foreman explained that Zen's has complied with the CUP and has not been assessed any penalty points. He added that there are no reported incidents. In addition, he stated that the business opens daily for lunch and dinner, with closing time indicated as 10:00 p.m. every night. No entertainment and live music are provided. Staff recommended approval of the request with the condition that the CUP be valid for the life of the State TABC license, provided standards are met, subject to the point system.

Chair Terry opened the public hearing. There were no public comments, and the public hearing was closed.

Commissioner Bryan pointed out that the menu indicated entertainment.

John Foreman made a correction that no amplified live music is provided.

MOTION: Upon a motion made by Commissioner Seebeck and second by Commissioner Taylor, the Commission voted seven (7) for and none (0) opposed, to approve the request with the condition that the CUP be valid for the life of the State TABC license, provided standards are met, subject to the point system. . The motion carried unanimously.

8. PC-04-31(03b) Consider a request by Steve Ramsey, Baker-Aicklen & Association on behalf of Vista Del Blanco, LTD, for the approval of a Final Plat for Blanco Riverwalk Subdivision, consisting of approximately 239 acres located at the 2700 block of IH 35 North.

Phil Steed explained that the purpose of the final plat is to combine the final plats of Blanco Riverwalk Phase I and II and to reflect modifications to the approved floodplain. A total of 55.911 acres are being dedicated to the City of San Marcos as parkland. On April 25, 2008, the Engineering Department accepted the Watershed Protection Plan, Phase Two based on the developer obtaining a CLOMR from FEMA. The developer has completed the drainage work required by the CLOMR and has submitted a LOMR. The Engineering Department has approved the submittal of the LOMR to FEMA. Mr. Steed further explained that a Planned Development District overlay had been approved for the subdivision, but at the request of the owner was

repealed on October 16, 2007. The action was predicated by commitments of the developer to create CCR's for use in approving development and the creation of a Property Owners Association for management of the standards. Staff recommended approval of the final plat subject to the revision of plat note 12 to read: "All development and operation of property within this subdivision is subject to the Declaration of Codes, Covenants and Restrictions recorded in volume ____ and Page ____ (to be entered upon recordation) of the deed records of Hays County, Texas. Theses supplemental development standards shall be utilized along with applicable city codes in the review and approval of all development applications."

MOTION: Upon a motion made by Commissioner Bishop and second by Commissioner Seebeck, the Commission voted seven (7) for and none (0) opposed, to approve the final plat subject to the revision of plat note 12 to read: "All development and operation of property within this subdivision is subject to the Declaration of Codes, Covenants and Restrictions recorded in volume ____ and Page ____ (to be entered upon recordation) of the deed records of Hays County, Texas. Theses supplemental development standards shall be utilized along with applicable city codes in the review and approval of all development applications." The motion carried unanimously.

9. A-08-04. Hold a public hearing and consider the City of San Marcos proposal to abandon a portion of Zunker Street, being the eastern 1/3 of Zunker Street between Thorpe Lane and Aquarena Springs Drive.

Phil Steed stated that the abandonment of Zunker Street is a City initiated request. He explained that the property is a short narrow street Right-Of-Way (R-O-W) that was dedicated by the Millview Addition. The segment of Zunker Street has not been constructed, however, there are SMEU power lines, poles and guy wires are located within the R-O-W. Mr. Steed advised the Commission that if abandonment is granted 10' P.U.E's will be required to provide access and service to SMEU lines and equipment. He recapped the May 13, 2008 Planning and Zoning Commission meeting stating that the alley abandonment request by Vance J. Elliott was not heard because the application was not complete. Mr. Steed stated that on May 14, 2008, the City of San Marcos received a letter from Mr. Elliott's agent requesting that the City of San Marcos initiate the abandonment of Zunker Street. The City of San Marcos has no plans to develop the segment of Zunker Street. The existing 35' of R-O-W is inadequate to develop to current standards and there are encroachments in the R-O-W. Mr. Steed advised the Commission that a letter in opposition was received and placed in their reading files. Staff recommended approval of the request with the condition that 10' P.U.E.'s be established to provide access and service to SMEU lines and equipment.

Chair Terry opened the public hearing. David Darrell, representing Vance J. Elliott, spoke in support of the request. He stated he was available to answer questions. There were no additional public comments, and the public hearing was closed.

Commissioner Bishop inquired if a survey would be acquired to locate the utilities.

Phil Steed advised that a survey would be required. Mr. Darrell David handed Mr. Steed a survey of the property identifying the utilities.

The Commission discussed the request and commented that landscaping would be the only possible use of the property. It was noted that a parking lot could also be developed on the property.

Commissioner Bryan asked why the City initiated the request. He referred to the letter received in opposition and asked if the Commission needed additional time to review the letter before consideration of the request. Commissioner Bryan pointed out that the cost of the property may be of concern to Mr. Hanzel.

Cecil Pennington explained that no taxes have been collected on the property. The only purpose the R.O.W. serves is for an easement and the City found no reason to maintain the property.

Commissioner Bishop commented that the letter was received today and felt that there was not reason to postpone the request.

Cecil Pennington explained the Mr. Hanzel did express his concerns to staff and was advised that he could express his concerns before the Commission.

Darrell David stated that he has spoken to appraisers and was advised that adjustments would be made to the property based on the proposed use. He added that there would not be an issue with meeting parking requirements.

Commissioner Bryan commented that a citizen does not have rights to a R-O-W even though they have maintained the property.

MOTION: Upon a motion made by Commissioner Seebeck and second by Commissioner Taylor, the Commission voted seven (7) for and none (0) opposed, to approve the request with the condition that 10' P.U.E.'s be established to provide access and service to San Marcos Electric Utility lines and equipment. The motion carried unanimously.

10. Planning Director's Report

Cecil Pennington announced that Chance Sparks is the new Chief Planner. Mr. Sparks will administer the Downtown Master Plan, Comprehensive Plan, CIP and CDBG. The Commission congratulated Mr. Sparks.

Cecil Pennington advised the Commission that the presentation of the Downtown Master Plan will be held at a Joint meeting of the Planning and Zoning Commission and City Council on August 5, 2008 at 6:00 p.m. in the Council Chambers.

Cecil Pennington announced that the Central Texas APA Conference will be held on October 1-4, 2008 and due to budget constraints, three Commissioners would be allowed to attend. Mr. Pennington added that Commissioners that have not attended a conference would have priority. He asked the Commissioners to advise staff by August 1, 2008 if they plan to attend.

11. Commissioners' Report

Commissioner Bishop stated that the APA Conferences are very educational and would be a benefit for anyone attending.

12. Consider approval of the minutes from the Regular Meeting of May 27, 2008.

MOTION: Upon a motion made by Commissioner Bishop and second by Commissioner Taylor, the Commission voted six (6) for, none (0) opposed and one (1) abstained, to approve the Regular Meeting Minutes of May 27, 2008 with corrections. The motion carried unanimously.


13. Questions and answers from the Press and Public.

Christopher Williams asked if information of the meeting was available to the public.

Chair Terry advised Mr. Williams that the minutes are approved at the following Planning and Zoning Commission meeting and could be available at that time.

14. Adjournment

MOTION: Upon a motion made by Commissioner Seebeck and second by Commissioner Taylor, the Commission voted seven (7) for and none (0) opposed, to adjourn the regular meeting of the Planning and Zoning Commission at 7:11 p.m. on Tuesday, June 10, 2008. The motion carried unanimously.


Fred A. Terry, Chair


Sherwood Bishop, Vice-Chair


Ryan Thomason, Commissioner

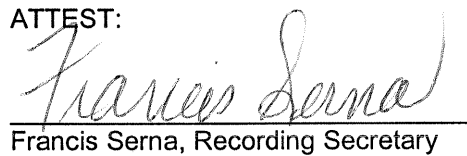

Bill DeSoto, Commissioner


Randy Bryan, Commissioner


Curtis O. Seebeck, Commissioner


Bill Taylor, Commissioner

ATTEST:


Francis Serna, Recording Secretary